

**IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No. 13-1745

In re: Aurora Dairy Corp. Organic Milk Marketing and Sales Practice Litigation

Debtor

Maya Fiallos, individually and on behalf of all others similarly situated; et al.,
Plaintiffs-Appellees

vs.

Aurora Dairy Corporation, doing business as Aurora Organic Dairy, et al.
Defendants-Appellees,

Sandra Yuen; Nancy Brown; Alison Paul; John Hightower; Cery Perle
Objectors

Burke Fort
Objector-Appellant

Appeal From U.S. District Court for the Eastern District of Missouri – St. Louis
(4:08-md-01907-ERW)

Motion of Nancy Brown, Alison Paul, John Hightower and Cery Perle for Leave to
File Late Appellants' Opening Brief; Memorandum of Points and Authorities; and
Declaration of Joseph Darrell Palmer

Joseph Darrell Palmer
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Memorandum of Points and Authorities

For good cause shown, the Court may grant the filing of a late Opening Brief. (Fed. R. App. P. 26(b)).

(b) Extending Time.

For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires.

Come now Appellants Nancy Brown, Alison Paul, John Hightower, and Cery Perle hereby request leave to file a late opening brief. In support, Appellants show the following:

1. Appellants' opening brief was due on May 24, 2013.
2. Appellants' counsel was unable to timely file the brief because of personal illness, because of the unavailability of other attorneys to assist with this case and other litigation matters, including several emergency matters.
3. Appellants' arguments are made in good faith and reflect serious and important issues raised in the district court and presented here for resolution.
4. Appellants' should not suffer forfeiture of important rights or any prejudice as a result of the delay of their attorney.
5. Appellants will suffer prejudice and permanent harm if this brief is not accepted.

6. Appellees will not suffer any prejudice from this small additional delay.

As demonstrated by the attached declaration of Joseph Darrell Palmer, good cause exists for granting filing of the late opening brief.

Dated: June 17, 2013

Law Offices of Darrell Palmer PC

/s/ Joseph Darrell Palmer

Joseph Darrell Palmer

Attorney for Appellants Nancy
Brown, Alison Paul, John Hightower,
and Cery Perle

DECLARATION BY JOSEPH DARRELL PALMER

I, Joseph Darrell Palmer, declare that:

1. I am an attorney admitted to practice before the U. S. Court of Appeals for the Eighth Circuit. I have personal knowledge of the facts as set forth herein and if called upon to testify, could competently do so.

2. This Declaration is made in support of the movants' request for an order allowing the late filing of their opening brief to June 17, 2013.

3. This request is necessitated due to: I have during the past three weeks suffered from two periods of illness which prevented me from working at all for more than 10 days. In addition, my office has suffered staffing problems, our main associate has been out on maternity leave, one of the temporary replacement attorneys was not performing adequately and the other has not been available to complete all the work necessary due to a pre-planned vacation. I have had several emergency matters to attend to and have even had to withdraw from three other cases and drop a major corporate client in order to keep up with the work load. I pled with former associate attorneys to assist me at very high rates but was unable to find extra assistance during this past month.

4. This motion is sought for good cause and not solely for the purpose of delay. The parties are not prejudiced by the late filing of the opening brief.

5. The court reporter is not in default with regard to any designated transcripts.

I declare under penalty of perjury, under the laws of the State of California and the United States of America, that the foregoing is true and correct. Executed this 17th day of June 2013, at Solana Beach, California.

/s/ Joseph Darrell Palmer

Joseph Darrell Palmer

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 17, 2013.

I certify that all parties in this case who are registered CM/ECF users that service will be accomplished by the appellate CM/ECF system.

/s/ Joseph Darrell Palmer

Joseph Darrell Palmer